

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM C. PIERCE,)	
)	
Plaintiff,)	8:06CV259
)	
v.)	
)	
NATALIE BAKER, M.D., et al.,)	ORDER
)	
Defendants.)	
_____)	

This matter is before the Court on defendant Patton's motion for judgment on the pleadings brought in his official and individual capacities pursuant to Fed R. Civ. P. 12(c), 12(b)(6), and 12(h)(2)(Filing No. 36). In addition, Patton has filed a brief and an affidavit in support of his motion (Filing Nos. 37 and 38).

According to Fed. R. Civ. P. 12(b)(6) and 12(c), a party may present matters outside the pleadings for the Court to consider. If the Court elects to consider such matters, the Court must treat the motion as one for summary judgment and dispose of it as provided in Rule 56. Further, "all parties shall be given reasonable opportunity to present all material pertinent to such a motion by Rule 56." Fed. R. Civ. P. 12(c).

Since Patton has presented an affidavit and supporting brief containing matters outside the pleadings, the Court elects to treat the motion as one for summary judgment. Accordingly,

IT IS ORDERED that plaintiff Pierce shall have until July 6, 2007, to submit evidence and an opposing brief in response to said motion.

DATED this 14th day of June, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court